

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

TINA WHITE,

Plaintiff,

vs.

FUTURA NORTH AMERICA, INC., a foreign corporation, and FUTURA S.P.A., a foreign public corporation,

Defendants.

§ 87(2)(b)

Case No. CIV-14-788-F

Oklahoma County District Court
Case No.: CJ-2014-3476

NOTICE OF REMOVAL

Please take notice that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants, Futura North America, Inc., a foreign corporation, and Futura S.P.A., a foreign corporation, remove the above referenced state court action to this Court on the grounds that the Court has jurisdiction over the parties as citizens of different states, the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs, and, the thirty day period from the date that the case became removable has not expired. In support of this Notice, Defendants respectfully state the following:

1. Plaintiff's Petition states that Plaintiff Tina White is a resident of Oklahoma County. *Exhibit 1*. Plaintiff has judicially admitted she is a citizen of the State of Oklahoma.

2. The Petition also states that Defendants are foreign corporations, which are admitted by Defendants. *Exhibit 1*. Also, Futura North America, Inc. is incorporated under the laws of the State of Georgia, and has its principal place of business in the

State of Georgia. Futura S.P.A. is an Italian company.

3. The Petition also alleges that Plaintiff was injured due to a machine manufactured and designed by Defendants.

4. Proper service has not yet been obtained on Futura S.P.A.

5. The amount in controversy, according to Plaintiff's petition, exceeds \$75,000, excluding interest and costs. 28 U.S.C. § 1332(a).

6. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds the sum of \$75,000, excluding interest and costs, and complete diversity of citizenship exists between the properly joined parties.

7. Defendant Futura North America, Inc. received improper service of the lawsuit when it received in the mail a letter directed to Legal Counsel, Futura North America Inc, in Alpharetta, Georgia, on June 20, 2014. *Exhibit 2*. Defendant Futura North America files this notice of removal within the thirty day time period required by 28 U.S.C. § 1446(b).

8. Defendants also include an index and copies of all process, pleadings, orders, and all other documents that Defendants have obtained from the Oklahoma County District Court file in *Tina White v. Futura North America, Inc. and Futura S.P.A.*, No.: CJ-2014-3476, including the docket sheet, are attached, Return of Service-*Exhibit 3*; Petition-*Exhibit 1*; Docket Sheet-*Exhibit 4*; Stipulation Extending Time to Answer-*Exhibit 5*; Answer-*Exhibit 7*. The action involves claims made by above named Plaintiff against above Defendants for alleged failure to properly design, manufacture and warn of the dangers inherent with the use of the product.

9. Defendants are giving the Oklahoma County District Court written notice of this removal in the form attached as *Exhibit 6*.

10. Removal to this Court is proper under 28 U.S.C. § 1441(a) because this is the district and division embracing the District Court of Oklahoma.

Prayer

For the above reasons, Defendants ask the Court to remove the state court action to the Western District of Oklahoma.

Respectfully submitted,

/s/ D. Bowen Berry

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of July, 2014, I electronically transmitted the Notice of Removal and all exhibits to the Clerk of Court using the ECF System for filing. I served the same documents by Certified Mail, Return Receipt Requested on the following counsel who is not a registered participant of the ECF system to the undersigned's knowledge:

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/s/ D. Bowen Berry
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